REMARKS

Claims 5-15, 19, 20 and 32 remain in the application, all such claims stand rejected. Claims 5-7, 11-12, 19, and 32 have been amended by this response. Reconsideration in view of the amendments and traverses set forth herein is respectfully requested. Applicant respectfully submits that all pending claims are in condition for allowance.

I. DRAWINGS

Applicants would like to thank the Examiner for indicating that the drawings filed January 18, 2004 have been accepted as of the February 15, 2006 office action.

II. THE CLAIMS DEFINE PATENTABLE SUBJECT MATTER

Applicants would like to thank the Examiner for removing as grounds for rejection all references under 35 U.S.C. § 102(b) in response to Applicant's last filing. The current office action rejects claims 5, 6, 8-15, 19, 20, and 32 under 35 U.S.C. §103(a) as being unpatentable over Kenerva (US Patent No. 5,930,233) in view of Matsumoto (US Patent No. 5,539,923). Claim 7 is rejected under 35 U.S.C. §103(a) as being unpatentable over Kanerva in view of Matsumoto and in further view of Leermakers. Those rejections in view of the amendments are respectfully traversed as set forth below.

A. The Rejection of Claims 5, 11, and 19

With respect to claims 5, 11, and 19, the Examiner alleges that Kenerva teaches the elements of those claims except that Kanerva does not explicitly teach the use of establishing a second channel between the data sending unit and the data receiving unit responsive to the identifying step. Instead, the Examiner alleges that Matsumoto teaches the use of establishing a second channel between the data sending unit and the data receiving unit responsive to the identifying step.

Applicant respectfully disagrees with the application of Matsumoto in this manner. Matsumoto is attempting to solve a different problem. Matsumoto is directed to a methodology to provide for more efficient use of the frequency spectrum. Specifically, Matsumoto teaches identifying adjacent base stations which may have higher numbers of idle channels than the currently used base station where a mobile device is present, and depending on the received signal strength on those idle channels within adjacent base stations, then selectively transferring the call to an adjacent base station. This is accomplished by transmission of a "connection possible" signal on those additional idle channels.

This is fundamentally different from the inventions identified in amended claims 5, 11, and 19. Each of those claims has been amended to clarify that the first channel and second channel are data channels. Thus, Applicant respectfully asserts that the combination of Kanerva and Matsumoto do not, either individually or collectively, teach or suggest establishing a second data channel between the data sending unit and the data receiving unit responsive to the identifying step and sending a request for retransmission of the lost frame over the established second data channel, and wherein use of the second data channel allows the sliding window at the data sending unit to be advanced beyond the sequence number of the lost frame prior to receiving an acknowledgement of receipt of the lost frame from the data receiving unit or an apparatus comprising means for doing so.

Accordingly, Applicants believe that even if it is appropriate to combine Kanerva and Matsumoto (which Applicants do not acknowledge and respectfully reserve the right to substantively challenge such combination), claims 5, 11, and 19 are patentable over such references and respectfully request reconsideration and allowance of those claims. Since claims 6-10, 12-15, and 20 depend, directly or indirectly, from claims 5, 11, and 19 respectively, then those claims are also in condition for allowance.

B. The Rejection of Claim 32

The Examiner has rejected claim 32 under 35 U.S.C. §103(a) as unpatentable over Kanerva in view of Matsumoto. Similar to the rejection of claims 5, 11 and 19 as set forth above, the Examiner acknowledges that Kanerva does not teach the specific use of establishing a second channel between the data sending unit and the date receiving unit responsive to the identifying step. The Examiner alleges that Matsumoto teaches use of establishing a second channel between the data sending unit and the data receiving unit responsive to the identifying step. The Examiner further alleges that Matsumoto also teaches closing the second channel upon successful receipt and acknowledgement of the lost frame.

Applicants respectfully disagree with the application of Matsumoto in this manner. As set forth above, Matsumoto is directed to resolution of a different problem. Matsumoto teaches identifying adjacent base stations which may have higher numbers of idle channels than the currently used base station where a mobile device is present, and depending on the received signal strength on those idle voice channels on adjacent base stations, then selectively transferring the call to an adjacent base station. This is accomplished by transmission of a "connection possible" signal on those additional idle channels. Matsumoto also teaches release of a voice channel upon successful transfer of the call to an adjacent base station, but does not teach closing a *data* channel *upon successful receipt and acknowledgement of the lost frame.*

This is fundamentally different from the inventions identified in amended claim 32. That claim has been amended to clarify that the first channel and second channel are data channels. Thus, Applicant respectfully asserts that the combination of Kanerva and Matsumoto do not, either individually or collectively, teach or suggest establishing a second data channel between the data sending unit and the data receiving unit responsive to the identifying step and sending a request for retransmission of the lost frame over the established second data channel, and wherein use of the second data channel allows the sliding window at the data sending unit to be advanced beyond the sequence number of the lost frame prior to receiving an acknowledgement of receipt of the lost frame from the data receiving unit or an apparatus comprising means for doing so.

Accordingly, Applicants believe that claim 32 is patentable over the combination of Kanerva and Matsumoto even assuming *arguendo* that it is proper to combine those references. Applicants respectfully request reconsideration and allowance of claim 32.

C. Other Claim Rejections

Applicants acknowledge that the Office Action establishes grounds for rejection of the claims that are dependent upon claims 5, 11, and 19. However, in view of the amendments and traversals set forth with respect to those claims, Applicant believes that all such dependent claims are in condition for allowance, rendering the rejections of those claims moot. Applicant believes that this response completely and accurately addresses all grounds of rejection. Applicant reserves the right to challenge the rejection of any of those dependent claims in any future response that may be forthcoming.

CONCLUSION

In view of the foregoing, Applicants respectfully submit that this application is in condition for allowance. Favorable consideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

Date: March 13, 2007

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